

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DEREK SHOOK,

Plaintiff,

- against -

EMPIRE MEDIA GROUP INC.

Defendant.

Docket No. 1:21-cv-10517

COMPLAINT

Plaintiff Derek Shook (“Plaintiff”) by and through his undersigned counsel, as and for his Complaint against defendant Empire Media Group Inc. (“Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of five (5) copyrighted photographs of Jodie Sweetin. The Photograph is owned and registered by Plaintiff, a Washington-based professional Photographer. Accordingly, Plaintiff seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1331(b).

PARTIES

5. Plaintiff is a photographer having a usual place of business at 12533 Rundle Road, Prosser, Washington 99350.

6. Upon information and belief, Defendant is a domestic business corporation duly organized and existing under the laws of New York with a principal place of business at 44 West 22nd Street, New York 10010.

7. At all times material hereto, Defendant has owned and operated a website at the URL: www.radaronline.com (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Graphic Photograph

8. Plaintiff created photographs of Jodie Sweetin (the “Photographs”). True and correct copies of the Photographs are attached hereto as Exhibit A.

9. Plaintiff is the author of the Photographs and has at all times been the sole owner of all right, title and interest in and to the Photographs, including the copyright thereto.

10. The Photographs were registered with the U.S. Copyright Office and were given Copyright Registration Number VA 2-134-368, effective as of January 10, 2019 (the “368 Registration”). A true and correct copy of the 368 Registration is attached hereto as Exhibit B.

B. Defendant’s Infringing Activities

11. On or about December 31, 2017, Defendant published an article on the Website entitled *Jodie Sweetin Shows Off Her New Year’s Body After Feud With Jailbird Ex* which prominently features the Photograph. See URL <https://radaronline.com/photos/jodie-sweetin-spotted-in-full-red-swimsuit-new-years/> (the “Infringing Article”). A screen shot of

the relevant portion of the Infringing Article displaying the Photographs is attached hereto as

Exhibit C.

12. Defendant did not license the Photographs from Plaintiff for its article, nor did Defendant have Plaintiff's permission or consent to publish the Photographs on its Website.

13. Plaintiff actually discovered the alleged infringement on January 9, 2019.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT)
(17 U.S.C. §§ 106, 501)

14. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-13 above.

15. Defendant infringed Plaintiff's copyright in the Photographs by reproducing and publicly displaying the Photographs on the Website.

16. Defendant is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photographs.

17. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

18. Upon information and belief, the foregoing acts of infringement by Defendant have been willful or in reckless disregard of Plaintiff's rights.

19. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

20. Plaintiff is further entitled to his full costs pursuant to Fed.R.Civ.P. 54(d).
21. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant be adjudged to have infringed upon Plaintiff's copyrights in the Photographs in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photographs;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs pursuant to Fed.R.Civ.P. 54(d);
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: New Rochelle, New York
December 9, 2021

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